

**Northern New Mexico College
HUMAN RESOURCES POLICY**

Subject:	Involuntary Termination Policy
File Reference:	3.19
Date Approved By Board of Regents:	September 25, 2001
Replaces Policy Approved On:	

Purpose:

Policy: Review of change in the Board of Regents' policy concerning hearings of personnel in cases of involuntary termination.

During the Board of Regents meeting of June 21, 2001, the Board affirmed that a procedure as outlined by the President concerning hearings of personnel in cases of involuntary termination would be followed until adoption of policies occurs in the updated Faculty and Staff Policy Handbooks, currently under discussion. President Maestas reiterated that the procedure involves (a) hearing any involuntary termination by the President; and (b) in cases in which the President concurs with termination, hearing by a neutral arbitrator/hearing officer mutually agreed upon by the employee and the College. Decision by the arbitrator will be irrevocable in case of a ruling for either involuntary termination or continued employment. President Maestas stated that this procedure has been offered to two employees in the recent past and they have not challenged the President's decision to dismiss them; however, the College may have cases in the future where employees request full due-process hearings.

Regent Schafer moved to approve the procedure outlined by President Maestas in cases of involuntary termination, seconded by Regent Cournoyer. Motion carried unanimously.

PROCEDURES FOR DISCHARGE

Regular full-time and part-time staff members may be discharged during the term of their contract in accordance with the following procedures:

- A. The immediate supervisor will submit, through appropriate channels, to the President or president's designee a recommendation for termination. The document shall specify the specific reason(s) and any documentation that may justify the recommendation. In certain situations, but not limited to incidents such as assault, sexual harassment, being under the influence of illegal drugs, the process may require immediate action and the supervisor or any individual who is aware of the incident, may go directly to the President or President's designee for immediate action.
- B. Within five calendar days of receiving the written description of cause, the staff member may request a meeting before the President or president's designee to present any evidence to dispute the cause alleged. Except for good cause, this meeting shall take place within ten (10) days of the request with at least three (3) days advance notice of the hearing time and place. The meeting with the

President or the president's designee is not a full-fledged hearing with cross-examination or presentation of witnesses. It is an opportunity for the staff member to personally make the case that the proposed termination should not go forward because it is mistakenly grounded upon misinformation or is otherwise contrary to the law.

- C. Within five (5) days of the meeting the President or the president's designee shall render a written decision upholding the proposed termination, or dismissing the proposal. The President or the president's designee is also authorized to propose a lesser disciplinary sanction.
- D. If the staff member is dissatisfied with the decision or proposal of the President or the president's designee, within five (5) days of the receipt of the decision, the staff member may request that a neutral fact finder/arbitrator hear and decide the staff member's appeal of the decision.
- E. The fact finder/arbitrator shall be chosen from the ranks of retired or former district court or appellate judges. If the parties cannot agree on a fact finder/arbitrator within five (5) days of the staff member's request for a hearing, the parties shall request that the presiding judge of the first judicial district select a fact finder/arbitrator from the ranks of retired or former district court or appellate judges.
- F. The fact finder/arbitrator, within five (5) days of being appointed, shall schedule a date for the hearing and the hearing will be held within thirty (30) days. The fact finder/arbitrator shall promptly schedule a meeting with the parties to establish limits and deadlines on discovery of information as deemed appropriate by the fact finder/arbitrator.
- G. At all levels of the termination process, the parties may be represented by counsel, or a person of their choosing and may call and cross examine witnesses or present documentary evidence subject to the ruling of the fact finder/arbitrator.
- H. The hearing before the fact finder/arbitrator shall be conducted informally insofar as the New Mexico Rules of Evidence do not apply. Claims and defenses shall be fairly presented. The fact finder/arbitrator will decide whether the hearing will open or closed to the public. Northern New Mexico Community College shall have the burden of proof as to its claim that cause exists for the termination. An audio recording of the proceeding shall be made at the expense of Northern New Mexico Community College.
- I. The fact finder/arbitrator shall render a decision in writing to the parties within ten (10) days of the conclusion of the hearing. The decision of the fact finder/arbitrator is final and binding.
- J. The cost of the fact finder/arbitrator shall be paid by Northern New Mexico Community College. The parties shall bear their own costs and attorney fees.
- K. If the fact finder/arbitrator upholds the termination, the staff member's compensation ceases as of the day of the written decision by the fact finder/arbitrator. If the fact finder rejects the termination, the staff member shall be reinstated and shall receive any raises the staff member would have received if the termination had not been begun.

Procedures:

Appendices:

Cross Reference: